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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Cr.M.P. No. 05 of 2007**

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| **Petitioner** | Santosh Kumar Soni, S/o Shri Ganesh Prasad Soni (Mukhtiyar Khas), aged about 32 years, by caste Sonar, r/o Namnakala Ambikapur, Distt. Surguja (C.G) |
| | *Versus* |
| **Respondents** | State of Chhattisgarh, through-The Station House Officer, Police Station Katghora, Distt. Korba (C.GT.) |

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**PETITION UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE**

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**Appearance:**

Shri Arun Kochar and Shri Sameer Singh, Counsel for the applicant.

Shri G.K. beriwal, Deputy Advocate General for the State/respondents.

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**ORAL ORDER**
**(02.05.2007)**

**Sunil Kumar Sinha, J.**

Heard.

This petition is directed against the order dated 30.11.2006 passed by the Sessions judge, Korba, in Criminal Revision No.52/2006. The aforesaid Criminal Revision was filed against the order dated 14.11.2006 passed by the Judicial Magistrate First Class, Katghora, in relation to Crime No.327/2006 registered at police Station Katghora for the offence punishable under sections 407 & 420/34 of I.P.C.

The brief facts are that the Truck bearing Regn.no.C.G.15-A/4508 was seized by the Police in connection with the aforesaid Crime on 4.11.2006. Thereafter an application for releasing the

vehicle on *Supurdnama* was filed by the applicant in the capacity of Power of Attorney Holder of the registered owner of the vehicle namely Jawaharlal Soni , s/o Ganesh Prasad Soni, aged about 45 years, resident of Pratappur Naka, Ambikapur, Distt. Sarguja (C.G). The said application was dismissed by the concerned Magistrate on 14.11.2006 on the ground that the applicant, showing himself to be the Power of Attorney Holder of the registered owner, is claiming possession of the vehicle and the allegations are that the number plate of the said vehicle was forged and thereafter it was being used by them. Thereafter, a criminal revision was filed which was also dismissed by the Addl. Sessions judge, taking almost similar view which was taken by the Magistrate. It is against this order passed by the two Courts below the petitioner, showing himself to be the Power of Attorney Holder of the registered owner, has filed this Criminal Misc. Petition.

I have heard learned counsel for the parties at length and have also perused the records of this Misc. Petition.

Section 451 Cr.P.C. empowers the Court to pass appropriate orders with regard to a property of criminal trial. This provides that the orders should be passed by the concerned court for the proper custody pending conclusion of the enquiry or trial; or to order it to be sold or otherwise disposed of, after recording such evidence as it things necessary; and if the property is subject to the speedy and natural decay, to dispose of the same. The power should be exercised expeditiously and judiciously as a quick action will not render the owner of the article to suffer because of its remaining unused or in some cases by its misappropriation and the Court or the Police would also not be required to keep the article in safe custody till the disposal of the trial and if the property is a vehicle, as in the present case, the quick disposal is necessitated because it is of no use to keep such seized vehicle at the Police station for a long period as ultimately the long detention would render into a junk and the machinery as well as body parts would be of no use for no body.

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The most important principle, over and above, what has been stated earlier, is that the property must be given in interim custody of a person who is really entitled to hold its custody. In case of a vehicle the registered owner would be the best person to hold the custody of the vehicle and if no rival claim is made against the claim of the registered owner, the property should be given in interim custody of the said owner.

In the present case, in fact, the power of attorney holder has claimed for delivery of the property on the basis of Power of Attorney said to have been executed in his favour by the registered owner. It is stated that since the registered owner was not well at the time of filing of the initial petition, therefore, the said Power of Attorney was executed by him.

Learned counsel for the petitioner is not able to state as to what is the present position regarding the health condition of the registered owner. However, he submit that now the registered owner can file a petition for releasing the vehicle on *Supurdnama* and he may be given a chance to move such an application.

Needless to say that there is no necessity of passing any order in this regard. The registered owner is always at his rights to file an application for claiming the interim custody of the vehicle. However, it is observed that if the registered owner himself files an application before the trial Court for releasing the vehicle on *Supurdnama* along-with the registration certificates etc., of the vehicle, as are usually required, the trial Court shall examine the same and keeping in mind the principles, referred to above, by this Court, it shall decide the application of the registered owner as early as possible preferably within a period of 15 days from the date of filing of such an application alongwith the certified copy of this order before the said Court.

With the aforesaid observations, this petition is finally disposed of.

**Sd/-**
**Sunil Kumar Sinha**
**Judge**

*Rao*